

REMARKS

The allowance of Claims 1-12, 16 and 20-23 is gratefully acknowledged. Reasons for the allowance of these claims were presented in the Appeal Decision.

Following the Appeal Decision of November 19, 2003, Claims 13 and 18-19 were rejected under 35 U.S.C. §102(b) as anticipated or obvious under §103(a) over US Pat. 3,442,269 (Druz). Amended Claim 13 describes a method comprising receiving a cardiac signal from a patient; determining from the signal with a portable analyzer whether the patient is experiencing atrial fibrillation; receiving a shock command from an operator; and shocking the patient with a portable shock generator in response to the shock command if the patient is experiencing atrial fibrillation. An embodiment of Claim 13 allows atrial fibrillation to be treated by an operator if a portable analyzer determines from a cardiac signal that the patient is experiencing atrial fibrillation. Druz describes a system which includes both a defibrillator and a cardioscope which can be operated together or in synchronization during which the defibrillator is triggered in timed relation to the patient's heart beat. However, the decision on whether the patient is actually experiencing atrial fibrillation is one which must be made by a trained professional observing the cardioscope. The Druz system does not include a portable analyzer which can determine from a cardiac signal whether the patient is experiencing atrial fibrillation. Accordingly the Druz system is only to be operated by a trained professional. Since a portable analyzer of this capability is not shown or suggested by Druz it is respectfully submitted that Claim 13 and its dependent Claim 19 are patentable over Druz.

Claim 18 adds the further step to Claim 13 of determining from the cardiac signal with the portable analyzer whether the atrial fibrillation terminates after shocking the patient. Druz suggests observing the cardioscope after shocking the patient, but that requires a trained professional to make the medical determination that atrial fibrillation has terminated. There is no suggestion in Druz of using a portable analyzer to make this determination. Accordingly it is respectfully submitted that Claim 18 is patentable over Druz for this further reason.

Claim 14 was rejected under 35 U.S.C. §103(a) as being unpatentable over Druz in view of US Pat. 5,824,033 (Ferrari). Claim 14 depends from Claim 13, which has been shown above to be patentable over Druz. Ferrari describes a defibrillator pad but adds nothing that would suggest determining from a cardiac signal with a portable analyzer whether the patient is experiencing atrial fibrillation, an element which is also lacking in Druz. Since the combination of Druz and Ferrari cannot render Claim 13 unpatentable, it is respectfully submitted that Claim 14 is patentable over these two patents by reason of its dependency.

Claim 15 was objected to as being dependent upon a rejected base claim (Claim 13) but would be allowable if rewritten in independent form. Accordingly Claim 15 is now presented in independent form and should now be allowable.

In view of the foregoing amendment and remarks it is respectfully submitted that Claims 13 and 18-19 are patentable over Druz and that Claim 14 is patentable over Cruz and Ferrari. It is further respectfully submitted that Claim 15 is now in allowable form. Accordingly it is respectfully requested that the rejection of Claims 13-14 and 18-19 under 35 U.S.C. §102(b) and §103(a) be withdrawn.

In light of the foregoing amendment and remarks, it is respectfully submitted that this application is now in condition for allowance. Favorable reconsideration is respectfully requested.

Respectfully submitted,

GUST H. BARDY ET AL.

By: W. Brinton Yorks, Jr.  
W. Brinton Yorks, Jr.  
Reg. No. 28,923

Philips Electronics  
22100 Bothell Everett Highway  
P.O. Box 3003  
Bothell, WA 98041-3003  
(425) 487-7152  
March 30, 2004